



## State of New Hampshire

### PUBLIC EMPLOYEE LABOR RELATIONS BOARD

SEIU LOCAL 1984, SEA of NH  
LITTLETON POLICE

Complainant

v.

TOWN OF LITTLETON  
LITTLETON POLICE DEPARTMENT

Respondent

CASE NO. P-0749-21

DECISION NO. 2001-011

### APPEARANCES

Representing SEIU Local 1984, SEA of New Hampshire for the Littleton Police Officers:

William H. McCann, Negotiator/ Field Representative

Representing Town of Littleton, Police Department:

Mark T. Broth, Esq.  
William Bagley, Esq.

Also appearing:

1. Corporal Paul J. Smith
2. Corporal David D. Wentworth
3. Officer James A. Shepherd
4. Officer Frederick Gilbert

For the Respondent:

1. Donald R. Jutton
2. Chief Louis P. Babin

## BACKGROUND

The State Employees Association of New Hampshire, SEIU Local 1984 - Littleton Police, (Complainant) filed unfair labor practice charges on September 27, 2000 pursuant to RSA 273-A:5 I (a), (c), (e) and (h) alleging that the Town of Littleton, (Respondent), acting through its Police Department and its agents failed to abide by an arbitrator's award, breached the parties' Collective Bargaining Agreement (CBA), unilaterally created a new position without negotiating with the Union, and refused to bargain. The District filed its answer on October 6, 2000 after which the parties attended a pre-hearing conference on October 23, 2000 (Decision No. 2000-114) and a hearing before the PELRB was scheduled for December 14, 2000. On October 30, 2000 the Respondent filed a Motion to Continue which was granted following the Complainant's assent. The parties then appeared at the rescheduled Board hearing on January 4, 2001.

At the outset of the hearing, the Respondent moved to amend its witness list by the addition of a witness, Stephen Keeney, the School Resource Officer. The Complainant objected. The Board reserved its ruling initially and, after deliberations and a later offer of proof by Respondent's counsel, determined that sufficient cause did not exist to allow this witness to testify for reason of late notice to the opposing side and that the essence of the proffered testimony would be unnecessarily redundant and cumulative. The Complainant also objected to the Respondent's use of the so-called "COPS Application" for federal funding of the position on the basis of late production in violation of the earlier order compelling production at least seven days prior to hearing and in violation of Pub 203.01(b) requiring production at least five (5) days prior to hearing. The Board reserved ruling until the materiality and relevance of the document could be ascertained. Both representatives made brief openings and an evidentiary hearing ensued. At the conclusion of the Complainant's case, the Respondent made an oral motion to have the complaint dismissed for failure of the Complainant to establish its case. The Complainant objected. The Board reserved its ruling and instructed the Respondent to proceed with its case. At the conclusion of the hearing the record was held open at the request of the parties to allow memoranda to be filed and to allow the Respondent to provide documentary evidence related to the COPS grant application to the Complainant and for inclusion in the hearing record. The documentary evidence was filed with the Board on January 11, 2001. The Respondent's Memorandum of Law was received on January 19, 2001 and the Complainant's Memorandum of Law on January 26, 2001. The record was then closed.

## FINDINGS OF FACT

1. The Town of Littleton (hereinafter "Town") employs police and other personnel in the operation of its police department and, thus, is a "public employer" within the meaning of RSA 273-A:1 X.
2. The State Employees Association of New Hampshire, SEIU Local 1984 - Littleton Police (hereinafter "Union") is the duly certified exclusive representative, as determined by the Public Employee Labor Relations Board pursuant to RSA 273-A:8 and RSA 273-A:10, for full-time employees classified

as Police Sergeant, Corporal, Police Patrolman, Dispatcher, Meter Patrol Officer and Secretary (Joint Exhibit #1 - "Collective Bargaining Agreement, RECOGNITION dated April 1, 1998 through March 31, 2001", Page 1)

3. Appendix A.3 of the parties' Collective Bargaining Agreement (hereinafter "CBA") indicates that the starting wage for a new officer is \$10.10 hourly, effective April 1, 2000. (Joint Exhibit #1)
4. The parties are subject to a previous Award of Arbitration, issued by Richard G. Higgins on October 1, 1998 relevant to the so-called "start step" procedure regarding the initial starting pay of police officers in the Town. (Union Exhibit #3). That Arbitrator's Award reviewed and interpreted the CBA in effect at that time which contains the same language as the CBA at issue in this instant case albeit differing wage rates are now ascribed to each pay step. It established the Town's obligation to post job positions following the requirements of Section 12.6.1 of the CBA and to hire new "Officers" at Step One as provided in the CBA. In that case the Town had hired a new Officer and assigned a higher step rate before notifying the Union.
5. Louis P. Babin is the Chief of Police in Littleton and initially told Corporal Paul Smith, the Union President, in the month of April 2000 that the Town was going to hire a new officer and he wanted to go through a similar process in setting a "start step" as had been employed in the hiring of a previous officer in the month of January 2000. The Union produced a letter dated January 31, 2000 relating to the starting pay for that hiring. (Union Exhibit #4) Chief Babin initially suggested an hourly rate of \$12.60 to Corporal Smith. Through later compelled disclosure, this amount was revealed to be the amount reported to the U. S. Department of Justice on a grant application submitted in the month of July 1999 by the Town and was neither the 'start step' nor the actual hourly pay accorded to the eventual candidate and incumbent School Resource Officer ("SRO"). The Town Manager testified that it was the rate of pay for a Sergeant as he was convinced that the Town would have to have a seasoned, experienced individual for the position who had previously worked in that kind of position. He characterized his selection of that figure as just being "...a number. It was conjecture at the time." In his mind, he always considered the position to be an adjunct to the school staff, more of a resource person than a police officer. Later evidence revealed that despite the increased hourly pay eventually established for the person hired to become the SRO, the application that the Town Manager approved specified that the position would be an entry level position calculated at an hourly rate of \$12.60 per hour. (Union Exhibit #12)
6. In or about April of 2000, the Town initially posted the job position of that School Resource Officer stating the "Minimum salary is \$10.10 hourly." (Joint Exhibit #2). It further stated that the position required a full time police officer certificate by any potential candidate. Witnesses for both sides testified that no

job position description accompanied this posting. The closing date for applicants was May 19, 2000.

7. Corporal Paul Smith testified that prior to the initial job posting, in April 2000, the Town did not discuss the starting salary for this position with the Union although both sides intended the position to be represented by the Union
8. On or about April 25, 2000 the Union made a written request that negotiations commence for an agreement as soon as possible. (Union Exhibit #10).
9. In either late April or early May, management had provided the Union leadership with a resume and letters of recommendation of an applicant for the SRO position along with an inquiry as to the starting pay step the Union would accept for that applicant. (Union Exhibit #6) Further, portions of the resume and personal references had been redacted so that one could not determine the identity of the applicant or his full experience from those documents (Union Exhibit #9). Officer Smith testified that the Union was therefore restrained in evaluating the qualifications of the individual in order to discuss an appropriate "start step" for the position. He also testified that such redaction had never taken place before when the parties were attempting to mutually agree upon terms and conditions of work for a candidate. Further, he testified that the Union was given only one day to consider these documents before they were to respond.
10. Chief Babin testified that his reason for redacting information from this resume was that, despite having authorization to release information signed by the SRO candidate, he, "didn't have authority to circulate his resume to other people. I need to be careful."
11. Corporal David Wentworth testified that concerns raised at a Union meeting in May included the brief amount of time the members had to review the documents provided, that none of the localities where the selected candidate had worked were revealed nor were any of the reference names, and that there was a concern that the salary structure would be affected if the SRO was to be paid more than the supervisory personnel.
12. Under cross-examination, Chief Babin indicated that in discussing the position with school authorities he understood it was to be a separate SRO position, distinct from a normal police officer, and entailed other specialized duties. However, when asked if he had informed the Union of this distinction or other special hiring steps or conditions of work, he answered that he couldn't recall if he had or had not.
13. All four Union witnesses indicated that they believed that they had been deceived by management in a way that prohibited them from negotiating an appropriate "start step" for this position.

14. On May 25, 2000 Chief Babin wrote to Union President Smith soliciting the Union's input "to determine if this candidate qualifies to begin his employment here above the 'start step'. It will be my intention to request of the Town manager that he be given credit for his prior experience, and start at step 12 on the union scale." (Union Exhibit #5) Chief Babin testified that in this letter he suggested that the SRO "start step" be Step 12 which was \$14.46 as of April 1, 2000. He stated that he used that number as a starting point because he knew there was no way that the Town was going "to get a thirteen year veteran at \$10.10 per hour." The Chief also later testified that he knew in May of 2000 that this singularly considered SRO candidate wanted \$14.50 per hour as his start step.

15. On May 26, 2000 Officer Smith responded to the Chief in a letter indicating that,

" We cannot at this time make an intelligent determination [of a fair "start step"] because we do not have enough information upon which to base a decision. Furthermore it is not the union's intention to hire a patrol officer at a wage higher that (sic) what the supervisors on the department are making now....As stated we feel we do not have the necessary amount of information available to us to make the decision asked of us.... The union would like to negotiate a starting salary range with management to help give more direction on this issue." (Union Exhibit #7)

There was no evidence that the Town ever responded to this letter. Corporal Smith testified that at this time the Union still had not been informed fully about the preferred candidate or the job duties and considered the SRO to be an assignment much like any other officer assigned additional duties, such as those of the officer fulfilling the role of prosecutor.

16. On May 27, 2000 Officer Smith issued a memo to all officers to arrange for them to participate in a hearing test to be conducted June 6-8, 2000 at the Littleton Regional Hospital. The unidentified "candidate" for the SRO position was told of this test requirement by Chief Babin and took the hearing test, notwithstanding that he was not then an employee of the Town.

17. At some time during the spring or summer of 2000, management arranged a so-called "ride along" for the "candidate" for the position of SRO with another sworn police officer prior to his official hiring.

18. The grant application to fund the SRO position was approved by letter of June 21, 2000 received from the U.S. Department of Justice. (Union Exhibit #11) Among the stated conditions of that Grant Award was that the funding from this grant was for the payment of " SALARIES AND APPROVED FRINGE BENEFITS" for three years for sworn entry level career law enforcement

officers. (submitted after hearing but before the record closed and labeled Union Exhibit #12).

19. Corporal Smith described the several aspects involved in the normal hiring process of a sworn police officer, some of which were as follows: a written application or resume, two oral boards, final candidate selections, psychological test, polygraph test, physical exam, physical fitness test and concluding with management's final decision.
20. Corporal Smith described the nature of the normal and routine activities undertaken by sworn police officers which included basic patrol, enforcement of statutes and ordinances, observation of speeders, establishment of various community programs like "Bike Safety" and "DARE", performance as Honor Guard, firearms mastery, and court prosecution. He further stated that officers were assigned to shifts and that a primary responsibility of sworn police officers was patrol.
21. Corporal Smith testified under cross-examination that individuals hired in the past as sworn police officers did not interview with the school superintendent, the school board nor meet with parents of students in grades six through twelve as did the candidate for SRO.
22. In further describing the position of SRO, Corporal Smith testified that the SRO has not been required to report in or out at the police department and that unlike other officers, the SRO gets day to day instruction from the School Superintendent. The SRO does not work a regular patrol shift nor does the SRO participate in shift rotations but rather works a fixed schedule. The SRO does not cover overtime slots. The SRO does, however, work mandatory special details such as Halloween.
23. When the Town's counsel showed Corporal Smith the job description attached to a July 11, 2000 letter from management's negotiator (Joint Exhibit #6), Corporal Smith admitted that the job descriptions for the SRO and a regular police officer were different, adding that he did not exactly know what the SRO did daily and therefore did not know if the SRO performed the duties recited in his job description.
24. The Town next communicated in writing with the Union by letter of William Wardwell, one of the Town's negotiators. This letter of July 11, 2001 indicated that the Town was going to re-post the job position on July 17, 2000 and included more details of the SRO's activities and responsibilities. It unilaterally established the starting rate at \$14.50 per hour. (Joint Exhibit #6)
25. Officer James Shepherd currently acts as the department's prosecutor and sought to apply for the SRO position following the second posting. He was motivated to do so for reason of the increase in pay and the fixed shift schedule at the school.

After indicating his intent to management, he was "pulled" into a meeting by the Chief with the Deputy Chief present. The Chief told him that there were additional requirements in the hiring process which included meeting with the school authorities, the need to take another polygraph test and to take another psychological test as well. Officer Shepherd testified that his request for a copy of the new job description was refused. He was also told by the Chief that the other candidate had already completed these additional hiring requirements. Officer Shepherd was told by the Deputy Chief in that same meeting that his application at this time would put "a wrench in the works".

26. The SRO does not report onto or off duty through the dispatcher or through the normal chain of command as do other officers. The SRO reports directly to the Deputy Chief.
27. Chief Babin characterized the manner by which he related to the SRO by stating that he meets with him and the principals outside of school and that he does not consider the SRO's walks around the schools as patrol work as did Union witnesses.
28. Chief Babin further testified that the SRO is performing the activities and responsibilities called for in the job description and that he is evaluated by the school administration on a quarterly basis.
29. The SRO does not have a Town provided vehicle and normally wears a recreational type duty uniform instead of the regular duty uniform.
30. Both the unnamed candidate and Officer Shepherd each had relevant prior professional experience with children. Officer Shepherd testified that his past relevant experience for the SRO position included work as a Teacher's aide and as a CPR Instructor. Chief Babin indicated that he was interested at that time in the present sole candidate's experience as a Scoutmaster and in his having participated in the so-called "SOAR" program involving foster children.
31. In response to inquiries by the Town's counsel, Officer Shepherd stated that he felt that police management was "pretty set" with the person they had already decided upon and agreed with the characterization of the Town's counsel that Officer Shepherd believed that person "had an inside track." Following that meeting, he informed the Chief that he was withdrawing his application.
32. Later, after learning of Officer Shepherd's withdrawal of his application, the Town Manager spoke with him and encouraged him to go forward notwithstanding the present circumstances. Officer Shepherd declined to do so.
33. Officer Frederick Gilbert testified that he was a member of the negotiating team, that the SRO was "one big hurdle" in the negotiations, and that as a member of the negotiating team he felt that the team believed that the new position was

going to be a sworn police officer with duties at the school. He further testified that the SRO negotiations created a wedge within the police officer ranks and that it was not until a late summer negotiation meeting that the Union officially learned that the position was "going to have a \$4.40 pay differential".

34. Donald Jutton has acted as the Town Manager for the Town of Littleton on a contract basis through his company, Municipal Resources, Inc., during all relevant times. In considering the establishment of the SRO position, he testified that the School Superintendent did not want an armed presence in the school but that the SRO had to be a sworn police officer because the federal grant regulations required that status.
35. When asked if he was familiar with the grant application, the Town Manager responded that it "Passed across my desk." Ostensibly he approved it, characterizing that while he had no written agreement with the School Superintendent other than agreeing to certain quarterly requirements, the decision to hire the individual presently in the position of SRO was a "combined" decision. He did state that all was in play by the time he directed a second posting of the job position, including what salary figure he needed as he "wasn't going to appoint someone without a firm dollar number." He knew that it was going to be in the range of a Sergeant, "but that the position would not carry stripes."
36. The Town Manager stated that the present SRO became a candidate in April of 2000 and it was in the weeks preceding the second posting of the position on July 17, 2000 that the present SRO was going through the school phase of the interviewing process.
37. The Town Manager stated that he did tell Officer Shepherd that he should apply after learning that he had withdrawn his application. At this same time, he acknowledged to Officer Shepherd that the other SRO candidate had already completed substantially all of the steps in the hiring process.
38. Under cross examination, the Town Manager stated that he knew in April of 2000 that they were going to get the grant, that he saw only the one applicant who became the SRO, that there were discussions during April and May about the "start step" and that he went ahead without negotiations and set the \$14.50 hourly rate because he felt "that's what it would take to get that candidate and that's what the market would require." He further responded that he "had an applicant and he wouldn't come for less than \$14.50."



## DECISION AND ORDER

The first issue we consider is the applicability of the October 1, 1998 Arbitrator's Award to the instant matter. These same parties took the issue of "start step" pay for police officers to arbitration then and an award was rendered. (Finding of Fact #4). That arbitration award related to the position of police officer. The issue now in dispute between these same two parties relates to the position of School Resource Officer (SRO). For reasons as appear below, we do not find that the two positions are the same and therefore do not find, in this instance, that the Town violated the previous Arbitrator's Award. (Union Exhibit #3).

The second issue that we consider is whether the Town's creation of the position of School Resource Officer falls within the so-called "management rights" exclusion of the Public Employee Labor Relations Act, RSA 273-A, that would exempt it's creation from negotiations with the Union. Appeal of International Association of Firefighters, AFL-CIO Local 1088 (1983) 123 N. H. 404; Appeal of State Employees' Association of New Hampshire, Inc. (1980) 120 N. H. 690. The statute reserves to the public employer the exercise of certain managerial policies including the "functions, programs and methods of the public employer, including....[its] organizational structure, and the selection, direction and number of its personnel, so as to continue public control of government functions." RSA 273-A:1, XI. In the instant case, the parties also included express provisions in their Collective Bargaining Agreement (CBA) that provided examples illustrative of the rights that they mutually agreed are inherent within the rights of the Town and that the Town seems to have exercised here in the creation of the SRO position. (See Joint Exhibit #1 Collective Bargaining Agreement, Article 3 Management Rights and Employee Rights, Sections 3.1.1.a, and 3.1.1.c through 3.1.1.h, inclusive).

In April of 2000, the Town initially posted a job announcement for the SRO position. It apparently did so at that time because it had been informed that a previous grant application to the U. S. Department of Justice to participate in the "COPS in Schools" program that it had submitted on July 7, 1999 was going to be approved. The Town had entered into a "Memorandum of Understanding" between its Police Department and the local school Supervisory Administrative Unit 35 on or about July 4, 1999 which described the School Resource Officer Program and the primary responsibilities of the SRO position. (See Union Exhibit #12, page 33-34). The Town then re-posted the SRO job on or about July 17, 2000 which contained significantly more information about the position requirements and indicated a substantial increase in the "expected" rate of pay. (Joint Exhibit #3).

Testimony supported that there were differences in the job description of the SRO that appeared attached to a July 11, 2000 letter from management (Joint Exhibit #6) and the original job posting. In addition, Corporal Smith testified that there were additional procedural steps involved in the hiring process for the SRO (Finding of Fact #21) beyond those customarily used for the hiring of regular police officers. (Finding of Fact #19) Similarly, Corporal Smith testified that the primary responsibility of regular sworn officers was patrol and that little time is spent by the SRO on normal patrol activities. (Finding of Fact #20) Other differences related to the normal chain of command reporting procedures that distinguish the SRO as a separate and

dissimilar position to that of a regular police officer in Littleton. The SRO reports directly to the Deputy Chief or Chief and not through the normal rank supervisory structure present within the police department for regular police officers. (Finding of Fact #26) The SRO also must submit quarterly reports to the Superintendent of Schools. (Finding of Fact #37) Taking the whole of the testimony relating to the distinguishing characteristics into consideration, the Board believes there is little doubt that both by design and in practice, the SRO is a position different from the other police officers within the department by the nature of its primary responsibilities and work performed (Joint Exhibit #3), by its unique uniform apparel (Finding of Fact #29), by its different reporting requirements (Finding of Fact #26), by its different work shift (Finding of Fact #22) and by its unique work location. (Finding of Fact #25) The Board believes this despite intermittent references in testimony that other police officers assume additional duties, such as that of Evidence Technician, Firearms Instructor, and Vehicle Maintenance Officer. The point of distinction is that the SRO's duties are his primary duties and are not supplemental. Nor is the Board convinced that the description of the position of Prosecutor, at this time performed as a part-time duty additional to the patrol work performed by the incumbent, alters its belief of the uniqueness of the SRO position. The Board consequently finds that the Town was entitled to create the new position of School Resource Officer (SRO) within its statutory rights under RSA 273-A:1, XI as well as within the rights conferred upon it by the mutual agreement of the parties as set forth in Collective Bargaining Agreement, Article 3 Management Rights and Employee Rights, *Ibid*.

The last issue we consider involves an examination of the Town's actions in creating the position of School Resource Officer, setting the initial compensation and terms and conditions of work and whether those actions constituted a refusal to bargain. The need for good faith negotiating is fundamental in bringing to fruition the legislature's declared policy that public employers are required to negotiate in good faith. See RSA 273-A *Statement of Policy, 1975 Session Laws Chapter 490:1*. In relevant part, RSA 273-A:3, I defines "good faith" negotiation as involving, "meeting at reasonable times and places in an effort to reach agreement on the terms of employment." While we have found that the Town had the right to create this new position of School Resource Officer, we find that it did not meet its obligation to negotiate in good faith with the Union that it acknowledged to represent this new position in contravention of RSA 273-A:5 (e).

The evidence relating to the chronology of actions undertaken by the Town is uncontroverted. Notwithstanding the Town Manager's testimony that there was not a written agreement with School Administrative Unit 35, (SAU 35) the Town entered into a "Memorandum of Understanding" with SAU 35, dated July 4, 1999, regarding the creation of a School Resource Officer (Union Exhibit #12, p.33) and submitted a grant application that contained the job responsibilities of the SRO. The grant application contents were not shared with the Union and a hourly pay rate of \$12.60 was set forth. Both parties acknowledged that the new position if granted, would be included in the existing Union. (Finding of Fact #7) Chief Babin involved the Union in a mutual process to set the pay for a newly hired police officer. (Finding of Fact #5) On or about April 25, 2000 the Union notified the Town of its desire to negotiate a successor agreement (Union Exhibit #10). At approximately the same time, the Town learned that its grant was going to be approved. It posted the SRO position indicating that the minimum salary was \$10.10 hourly and that any prospective candidate was required to have

a full time certificate. (Joint Exhibit #2). This posting also indicated a closing date for applicants of May 19, 2000. Although the Town had completed its grant application almost a year earlier, this posting did not contain a job description and none was shared with the Union by that date. (Finding of Fact #24) A candidate responded to the posting and met with management. To that point, the Town had not formally responded to the Union's request to begin negotiations that would have included contract re-opener issues and this position.

Chief Babin provided a redacted resume and redacted letters of reference in support of an unnamed candidate requesting the Union's input as to qualifications and inquiring as to what starting pay step it would accept for this position. (Union Exhibit #6) Chief Babin represented to the Union that he wanted to go through a similar process in setting a "start step" as had been employed in January with the hiring of another new member of the police department. (Finding of Fact #5) At a Union meeting on May 12, 2000 Corporal Wentworth testified that there was a concern among the union members that the salary structure would be affected by the SRO position being paid at a higher rate than supervisory officers within the department. On May 25, 2000 Chief Babin wrote to the Union and suggested that the start step be \$14.46 hourly. (Union Exhibit #5) He also gave the Union one day to respond. On May 26, 2000 the Union responds by letter again expressing its desire to meet for negotiations in part, because they do not have sufficient information regarding the position over which they were expected to mutually agree as to wages and other terms and conditions of work. (Finding of Fact #15) On May 27, notice was provided by Corporal Smith to all employees that they were to participate in having their hearing tested at a local hospital. Chief Babin took it upon himself to make arrangements so that the sole prospective candidate for the SRO position undergo the hearing tests as well. (Finding of Fact #16) Approximately at this same time, the Chief had discouraged a present member of the Union, Officer Shepherd, from applying and the Deputy Chief allegedly indicated to Officer Shepherd that if he participated further in the process he would be putting "a wrench in the works." (Finding of Fact #25)

The official award letter for the grant that would allow the position was received by the Town by letter of the U. S. Department of Justice, dated June 21, 2000. The Town has still not responded to the request for a negotiation session with the Union, now two months later. Still another month later on July 11, 2000 a Town negotiator wrote to the Union on July 11 providing it with another job description and informing the Union that the job was going to be posted again. It was, on July 17, 2000. The Town went on to hire the single prospect at the rate of \$14.46 hourly.

For the period of time, approximately beginning on April 25, 2000 with the Union's letter to initiate negotiations, including this matter and continuing beyond a time when any viable input could be provided by the Union, the Town did not meet at reasonable times in an attempt to reach agreement with the Union as to the terms and conditions of this position in compliance with RSA 273-A:5 I (e) and (h).

"Terms of employment" is defined in relevant part, following our finding with respect to managerial rights expressed above, as meaning "wages, hours and other conditions of employment." RSA 273-A:1, XI. Chief Babin was able to keep open a channel of communications with the Union on issues related to the new position, at least from the time they

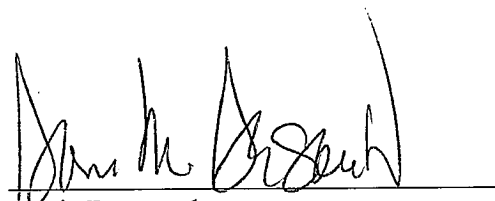
requested negotiation sessions to begin, based upon the trust his department officers had in him. But while what can only be described, at best, as surface bargaining was transpiring between him and the Union, he and other members of the Town's management were otherwise busy. It changed the job posting and substantially changed the rate of pay. It assisted one candidate who can only be characterized generously as, indeed, being on an "inside track". It discouraged at least one other potentially qualified Union member from being a candidate, notwithstanding the comments of Mr. Jutton. It avoided substantive and, we believe, necessary negotiations with the Union. Over the approximate three month period during which negotiation sessions were not actively taking place, the Town pursued actions that eventually presented the Union with a *fait accompli*.

When the proverbial smoke cleared, the Town had not merely created a new position. Its Police Chief had lulled the Union leadership into a comfortable expectation, born of past dealings regarding new hires and held back certain information about the soon to be hired individual. The Chief also obfuscated the true nature of the position from the Union while proposing to discuss its starting salary. The Town's negotiators ignored the Union's request to meet to negotiate for approximately three months, while the Town Manager or his representatives hired the SRO, set his start step pay, set his hours of work, set his clothing and equipment requirement, set his obligations for service on other details and set other benefits as well. And then, and only then, the Town came to the bargaining table. There is, we think, in public sector collective bargaining a boundary that rightfully restricts both parties to reasonable actions during the negotiation process. Here, the Town of Littleton crossed that boundary.

We find, then, that the Town's actions demonstrate the absence of good faith bargaining sufficient to violate RSA 273-A:5 (e) and (h). All other allegations of unfair labor practice are dismissed. The parties are directed to negotiate in good faith consistent with this decision or otherwise continue into mediation or fact-finding as contemplated by our laws. The parties are also to submit a jointly executed report of the status of their negotiations, mediation, or fact-finding and describe within that report the actions each has undertaken in furtherance of their obligations required by law and contained herein. Lacking submission of such a mutual report to the Board on or before April 10, 2001, the Board may issue a Notice of Hearing to the parties in order to inquire as to the status of these negotiations.

So Ordered

Signed this 9th day of March, 2001

  
Doris Desautel  
Alternate Chairman

By unanimous decision. Doris Desautel presiding. Richard Roulx and E. Vincent Hall present and voting.